

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)

**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**  
**ONE HUNDRED AND SEVENTEENTH LEGISLATURE**

**SECOND SPECIAL SESSION**  
**September 5, 1996 to September 7, 1996**

**ONE HUNDRED AND EIGHTEENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 4, 1996 to March 27, 1997**

**FIRST SPECIAL SESSION**  
**March 27, 1997 to June 20, 1997**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 26, 1997**

**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 19, 1997**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

---

---

**J.S. McCarthy Company**  
**Augusta, Maine**  
**1997**

**CHAPTER 152****S.P. 118 - L.D. 397****An Act to Change the Burden of  
Proof for Timber Trespass and  
Timber Theft Violations**

**Be it enacted by the People of the State of  
Maine as follows:**

**Sec. 1. 17 MRSA §2510, sub-§1**, as amended by PL 1987, c. 141, Pt. B, §14, is further amended to read:

**1. Unlawful cutting.** Any person who ~~intentionally, knowingly, recklessly or negligently~~ in fact cuts down or fells any tree without the consent of the owner of the property on which the tree stands commits a civil violation for which the forfeitures provided in this section may be adjudged, ~~except that the~~ Proof of a culpable state of mind is not required. ~~The cutting down or felling of any tree by the following are exempt from this section:~~

A. The Department of Transportation in the performance of activities under Title 23, section 701;

B. Public utilities in maintaining adequate facilities in emergencies in compliance with Title 35-A, section 301; and

~~C. Licensed arborists under contract with a municipality or private individual or municipal~~ Municipal employees, persons contracting with a municipality or other legitimate agents of a municipality acting within the course and scope of their employment, in or performing volunteer work for the municipality removing street trees or property line trees under ordinary circumstances or blown down trees or in emergencies; and,

~~D. An abutter, personally or by his agent, involved in a boundary dispute with another abutter.~~

**Sec. 2. 17 MRSA §2510, sub-§2**, as amended by PL 1995, c. 450, §5, is further amended to read:

**2. Forfeitures.** The following forfeitures may be adjudged for each tree over 2 inches in diameter that has been cut or felled:

A. If the tree is no more than 6 inches in diameter, a forfeiture of \$25;

B. If the tree is over 6 inches and up to 10 inches in diameter, a forfeiture of \$50;

C. If the tree is over 10 inches and up to 14 inches in diameter, a forfeiture of \$75;

D. If the tree is over 14 inches and up to 18 inches in diameter, a forfeiture of \$100;

E. If the tree is over 18 inches and up to 22 inches in diameter, a forfeiture of \$125; and

F. If the tree is greater than 22 inches in diameter, a forfeiture of \$150.

**Sec. 3. 17 MRSA §2510, sub-§§4 and 5** are enacted to read:

**4. Restitution.** The court shall inquire of the prosecutor or the owner of the property on which the tree was cut down or felled the extent of the owner's financial loss. With the owner's consent, the court shall order restitution when appropriate on the basis of an adequate factual foundation. The order of restitution must designate the amount of restitution to be paid and the person or persons to whom the restitution must be paid. Restitution ordered under this subsection is in addition to any forfeitures adjudged under subsection 2.

Any restitution ordered and paid must be deducted from the amount of any judgment awarded in a civil action brought by the owner against the offender based on the same facts.

**5. Liability for conduct of another.** A person commits the civil violation in subsection 1 even if the person did not personally cut down or fell the tree if the person is legally accountable for the conduct of another person who violates subsection 1. A person is legally accountable for the conduct of another person if:

A. The person causes another person to violate subsection 1; or

B. The person solicits another person to commit the civil violation or aids, agrees to aid or attempts to aid another person in planning or committing the civil violation.

See title page for effective date.

**CHAPTER 153****H.P. 501 - L.D. 692****An Act Concerning the Importation  
of Marine Organisms That May Be  
Dangerous to Indigenous Marine  
Life or Its Environment**

**Be it enacted by the People of the State of  
Maine as follows:**

**Sec. 1. 12 MRSA §6071**, as amended by PL 1995, c. 406, §§4 and 5, is further amended to read:

**§6071. Importing of certain marine organisms**

**1. Live importing for introduction into coastal waters.** Except for Atlantic salmon imported by the Atlantic Salmon Authority under Part 12, it is unlawful to ~~introduce or import for introduction, possess for purposes of introduction or introduce into any coastal waters any a live marine organism or to possess any of those introduced or imported organisms~~ without a permit issued by the commissioner pursuant to subsection 2.

**2. Permits and regulations on importing for introduction.** The commissioner may grant ~~permits a permit to possess, import and import for introduction, possess for purposes of introduction or introduce an organism to the coastal waters a live marine organism if those actions the introduction, importation or possession~~ will not endanger the indigenous marine life or its environment. Prior to granting a permit to introduce a nonindigenous organism, ~~which that~~ has not been previously introduced under a permit, the commissioner shall hold a hearing. The commissioner may adopt or amend ~~regulations rules~~ governing the importing and introduction of organisms ~~to the coastal waters~~ and the issuing of permits, to the extent required to prevent the introduction of bacteria, fungus, virus or any other infectious or contagious disease or parasite, predator or other organism that may be dangerous to indigenous marine life or its environment.

**2-A. Restricting importation of organism.** The commissioner may adopt rules under which the commissioner may restrict the importation of a marine organism from a particular location when the commissioner determines that an organism from that location is or may be diseased or infected in any manner. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

**3. Organism and products embargoed and condemned.** The commissioner or the commissioner's agent may indefinitely embargo, condemn or order to be destroyed ~~any a marine organisms organism or marine organism product either indigenous or imported and introduced to coastal waters in violation of this section whenever it is determined that the product is of unsound quality; contains any filthy, decomposed or putrid substance; may be poisonous or deleterious to health; or is otherwise unsafe. The commissioner shall cooperate with those state and federal agencies having similar responsibility in the protection of public health and in enforcing the order to embargo, condemn or destroy. if:~~

A. The organism or product is introduced to coastal waters in violation of this section and the commissioner determines that the organism or product is of unsound quality, contains any filthy, decomposed or putrid substance, may be poisonous or deleterious to health or is otherwise unsafe;

B. The organism or product is intended for introduction to coastal waters and the commissioner determines the organism or product is diseased or otherwise in a condition that if introduced to coastal waters could endanger indigenous marine life or its environment; or

C. Handling of the organism or product could result in the introduction of that organism or product to the coastal waters and the commissioner determines the organism or product is diseased or otherwise in a condition that if introduced to coastal waters could endanger indigenous marine life or its environment.

The commissioner shall cooperate with those state and federal agencies having similar responsibility in the protection of public health and in enforcing the order to embargo, condemn or destroy.

If any marine organisms or marine organism product is embargoed, condemned or ordered destroyed, the commissioner or the commissioner's agent shall, as soon as practical, notify the owner in writing of the amount and kind of marine organisms or marine organism product embargoed, condemned or destroyed.

**4. Salmon imports prohibited.** Except as provided in this subsection and section 9906, it is unlawful to import for introduction into any waters of the State any Atlantic salmon, live or as eggs, that originate in any Icelandic or European territorial waters or any other species of salmon, exclusive of rainbow trout, originating west of the North America continental divide. The commissioner may grant an exemption from the provisions of this subsection for a term not to exceed 2 years, renewable upon application, for legitimate aquacultural projects.

See title page for effective date.

---

---

**CHAPTER 154**

**S.P. 233 - L.D. 802**

**An Act to Clarify Liability Coverage**

**Be it enacted by the People of the State of Maine as follows:**